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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,421	08/21/2003	James J. Ross	082454-0102	8063
26371	7590	12/05/2005	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			KOVACS, ARPAD F	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/645,421

Applicant(s)

ROSS ET AL

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-17,21-25,28-31,35,36,38-40 and 42-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-17,21-25,28-31,35,36,38-40 and 42-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 17, 35, 38-40, 55, 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re cl. 17, the recitation of “flexible portion adjacent to the other” appears to suggest that a combination claim is recited, when in fact a subcombination is set forth, i.e. the accessory.

In re cl. 35, 38-40, claims depend from a cancelled claim. Therefore no examination can be provided for this claim.

In re cl. 55, 59, the recitation of “compressible portion has a ... than a thickness of the other of the handle and the control” is confusing, since claims 17 and 24, respectively, recite a subcombination, i.e. the accessory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. Claims 17, 21-22, 24, 45-47, 51, 54-55, 58-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall (3203653).

Hall discloses:

cl. 17, 21-22, 24, 45, 46, 47:

an accessory comprising:

a body has a compressible / flexible portion or outer surface & a high friction inner surface (foam plastic member ref 14);

the expected result of a channel etc. is met by the flexible / foam material choice & a first end & a second opposite end (fig 4, refs 32, 33) defining a gap therebetween;

cl. 47:

means for securing the ends (the flexible plastic foam sections ref 26, due to its material property secures the ends as shown in fig 4-6);

48, 51:

the means for securing includes a first extension extending from the first end & a second extension extending from the second end (sections connected to the ends, fig 4-6), capable sufficiently spaced to accommodate another member;

54, 58:

the channel passes completely through the compressible portion (as shown in fig 4-6);

cl. 55, 59:

the thickness of the compressible portion can be equal to or greater than an another (different than the pipe ref 10, shown with dimensions D, D' or D")
tube/pipe/member having a dimension smaller than the pipe.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 6-16, 23, 25, 28-31, 36, 42-44, 49-50, 52-53, 56-57, 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadzinski et al (5784868).

Wadzinski discloses the claimed device except for providing a foam / compressible / flexible material on the bail or control and/or the handle bars.

Hall discloses that it is known in the art to provide a compressible foam that is readily adjustable to a variety diameter of pipe (col. 1, ln 42-43; and see rejection made above) by removing sections of the cylindrical shaped plastic foam member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bail or control bar or handle bar of Wadzinski with the teachings of Hall, in order to have the flexibility to provide the foam material either to the control bar or to the handle bar by taking advantage of the adjustability feature of the foam compressible member to a different diameter (i.e. the diameter of the handle bar and of the control bar). Thus this new design

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would replace the current material wrapped about Wadzinski's bail ref 20 and/or remove and add to the handle ref 10, for the reason prementioned above.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 6-17, 21-25, 28-31, 35-36, 38-40, 42-63 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

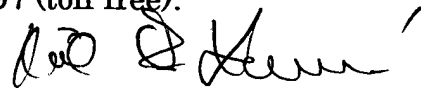
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Knittel et al., Knittel et al ('088), Knight, Hodapp, Willox, Flory, Engle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábíán Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábíán Kovács
Primary Examiner
Art Unit 3671

ÁFK